BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

ROBERT HADWICK)
Claimant)
VS.)
) Docket No. 157,426
DUB'S DREAD COUNTRY CLUB)
Respondent)
AND)
)
CNA INSURANCE COMPANIES)
Insurance Carrier)

ORDER

The respondent and its insurance carrier requested review of the preliminary hearing Order dated October 22, 1997, entered by Administrative Law Judge Julie A. N. Sample.

Issues

The Administrative Law Judge granted claimant's request for post-award medical treatment. Respondent and its insurance carrier requested the Appeals Board to review the following two issues: (1) whether the Administrative Law Judge exceeded her jurisdiction by ordering a weight-loss program for claimant and (2) whether the Administrative Law Judge exceeded her authority in granting benefits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for preliminary hearing purposes the Appeals Board finds as follows:

This is an appeal from a preliminary hearing. K.S.A. 44-534a, as amended, limits appeals from preliminary hearings to the following issues: (1) whether the employee suffered an accidental injury, (2) whether the injury arose out of and in the course of

employment, (3) whether notice and claim were timely made, and (4) whether certain defenses apply. The issues raised by respondent and its insurance carrier do not fall within any of those four categories. Therefore, K.S.A. 44-534a, as amended, does not empower the Appeals Board with jurisdiction to review the issues presented by the respondent and its insurance carrier at this stage of the proceeding.

Likewise, K.S.A. 44-551(b)(2)(A), as amended, does not grant the Appeals Board jurisdiction at this juncture of the proceeding to review and reweigh the evidence concerning claimant's entitlement to medical treatment. K.S.A. 44-534a, as amended, specifically authorizes administrative law judges to award medical benefits at preliminary hearings and the Appeals Board finds that the weight-loss program which the judge ordered is medical treatment as contemplated by K.S.A. 1988 Supp. 44-510.

Because the Appeals Board does not have jurisdiction to consider the issues raised by respondent and its insurance carrier at this juncture of the proceedings, the appeal should be dismissed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that this review is dismissed and the Order of Administrative Law Judge Julie A. N. Sample dated October 22, 1997, remains in full force and effect.

IT IS SO ORDERED.

Dated this	day of December 1997.
Dateu tilio	uav di Decellibel 1991.

BOARD MEMBER

c: Dennis L. Horner, Kansas City, KS
David F. Menghini, Kansas City, KS
Julie A. N. Sample, Administrative Law Judge
Philip S. Harness, Director